D.B. CIVIL SPECIAL APPEAL NO.542/2005
(State of Rajasthan V/s Babu and ors.)

3.1.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE R.P.VYAS

Mr. L.R.Upadhyaya, for the appellants
Mr. Ravinder Singh, caveator.

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Heard the learned counsel for the appellant as well as caveator.

The appeal is directed against the judgment of learned Single Judge dtd.8.11.2004.

The learned labour Court held the retrenchment effected in Mahi Project, Banswara to be invalid in respect of which reference has been made. However, the learned Labour Court instead of reinstatement has awarded compensation for a sum of Rs.13,500/- to each of the workmen.

Aggrieved with the award of compensation in lieu of reinstatement, the workmen have preferred writ petition No.5904/2003. All the workmen have been appointed as Beldar at Mahi Project prior to 1.4.1985 and as per the

finding of the learned Labour Court while retrenching the respondent – workmen, persons junior to them have been retained in service. All the workmen have served for almost 5 years or more before retrenchment has taken place.

Keeping in view all the circumstances, vide judgment under appeal, the learned Single Judge has allowed the writ petition by modifying the award by directing reinstatement of each workman, but without back wages.

It is pointed out by the learned counsel for the respondents that in two Division Bench decisions of this Court relating to identical dispute, by which modification of award by which reinstatement has been ordered without back wages has been upheld. Reference has been made to the decision of this Court in D.B. Civil Special Appeal No.84/2003 decided on 11.2.2005 and D.B. Civil Special Appeal No.1058/2000 decided on 8.8.2000 as well as review petition filed in the said special appeal which was also dismissed on 29.3.2005.

The two division Benches of this Court considering the circumstances in which retrenchment has been effected holding that person junior to retrenched workmen

have been retained in service,found modification of the award by the learned Single Judge to be justified and the special appeals have been dismissed. The same result should follow in this case as the facts are identical and arise in the similar circumstances.

The appeal therefore, fails and is hereby dismissed. No order as to costs.

(R.P.VYAS)J (RAJESH BALIA)J.

SS/-